

## BOARD OF ZONING APPEALS MEETING

TIPP CITY, MIAMI COUNTY, OHIO

March 19, 2008

<b>Meeting</b>	Mr. Poff called this meeting of the Tipp City Board of Zoning Appeals to order at 7:300 p.m.
<b>Roll Call</b>	Roll call showed the following Board Members present: Ron Poff, Stacy Wall, John Borchers and David Berrett. Others in attendance: City Planner/Zoning Administrator Matthew Spring, and Board Secretary Kimberly Patterson.  Citizens attending the meeting: Nancy Keen, Theodore Keen, Michele Williams, James Williams, George Timmer, Jeremy Carter, and Jim Ross.
<b>Election of Officers</b>	Mr. Poff opened the floor for nominations.  Mr. Borchers <b>moved to elect Mr. Ron Poff as Chairman of the Board of Zoning Appeals</b> , seconded by Mrs. Wall. <b>Motion carried.</b> Ayes: Borchers, Wall, Berrett, and Poff. Nays: None.  Mr. Borchers <b>moved to elect Mrs. Stacy Wall as Vice-Chairman of the Board of Zoning Appeals</b> , seconded by Mr. Berrett. <b>Motion carried.</b> Ayes: Borchers, Berrett, Poff, and Wall. Nays: None.  Mr. Poff closed the floor for nominations.
<b>Board Minutes 11-27-07</b>	Chairman Poff asked for discussion. There being none, Mrs. Wall <b>moved to approve the November 27, 2007, meeting minutes as written</b> , seconded by Mr. Poff. <b>Motion carried.</b> Ayes: Poff and Wall. Nays: None. Mr. Borchers and Mr. Berrett abstained from the vote.
<b>Board Minutes 2-20-08</b>	Chairman Poff asked for discussion. There being none, Mr. Berrett <b>moved to approve the February 20, 2008, meeting minutes as written</b> , seconded by Mrs. Wall. <b>Motion carried.</b> Ayes: Berrett, Wall, and Borchers. Nays: None. Chairman Poff abstained from the vote.
<b>Chairman's Introduction</b>	Chairman Poff explained the guidelines and procedures for the meeting and public hearings. He advised the applicants that a decision of the Board could be appealed to City Council within 10 days. If the Board granted the applicants request, the applicant my file the appropriate permits after the 10-day waiting period has expired.
<b>Citizen Comments</b>	There were no citizen comments on items not on the agenda.
<b>Administration of Oath</b>	Mrs. Patterson, notary, swore in citizens wishing to speak and to Mr. Spring.

New Business

Case No. 04-08:  
Williams  
221 N. Fourth St.  
Variance  
Request

**Case No. 04-08: Michele and James Williams - 221 N. Fourth Street**

**- Inlot: Pt. IL 230** - The applicant requests a variance of 3' 1" to Code §154.061(I) to allow a residential access drive 2' 11" from the side property line rather than the required six (6) feet.

**Present Zoning District:** R-2 – Urban Residential Zoning District

**Zoning Code Section(s):** §154.061(I)

Mr. Spring stated that in conjunction with a proposed expansion of a residential driveway, the applicant requested a variance of 3' 1" to Code §154.061(I) to allow a residential access drive 2' 11" from the side property line rather than the required six (6) feet.

Mr. Spring noted that Zoning Code Section §154.061(I) states:

*Residential access drives. Access drives within residential districts shall maintain a minimum setback distance of 6 feet from adjacent properties.*

Mr. Spring explained the procedural requirements to grant the variances in this case as outlined in Sections §154.175(E)(1)&(9) §154.175(C) and §154.175(D) of the Tipp City Code of Ordinances.

Mr. Spring stated that if the requested variance was granted, the applicant would be required to obtain an approved Zoning Compliance Permit and pay the required \$40 Permit fee.

Mr. Jim Williams, 221 N. Fourth Street, stated that he was looking for a 3' 1" variance to the driveway. Mr. Williams stated that at the current time the concrete that was shown on the photo provided was currently 20' in length and 10' wide with two runners for fire tracks. Mr. Williams noted that they had been in the home for about one year and would like to remove the two runners and complete the solid portion with a new drive. The retaining walls were not 6' from the property line and in order to continue the old drive with the new drive to the garage the variance is needed. Mr. Williams stated that the solid drive would improve functionality, remove cars from the street, and increase the property value.

Chairman Poff asked for further discussion. There being none, Mrs. Wall **moved to grant a variance of 3' 1" to Code §154.061(I) to allow a residential access drive 2' 11" from the side property line rather than the required six (6) feet**, seconded by Chairman Poff.

**Motion carried.** Ayes: Wall, Poff, Berrett, and Borchers. Nays: None.

**Case No. 05-08:  
Robert Timmer  
Tipp Top Canning  
505 S. Second St.  
2 Setback  
Variance  
Requests**

**Case No. 05-08: George Timmer, owner Tip Top Canning - 505 S. Second Street – Inlot: OL 49 - The applicant requests two variances:**

1. A variance of 25.55 feet to the minimum required rear setback of 100 feet noted in Code §154.055(C)(2)(b)(1) for Permitted Industrial Uses abutting a residentially zoned property.
2. A variance of 46 feet to the minimum required side setback of 100 feet noted in Code §154.055(C)(2)(c)(1) for Permitted Industrial Uses abutting a residentially zoned property.

**Present Zoning District:** I-2 – General Industrial Zoning District

**Zoning Code Section(s):** §154.055(C)(2)(b)(1)

Mr. Spring stated that the applicant had proposed a ±51,000 addition to the Tip Top Canning warehouse located at 505 S. Second Street. The property in question was zoned I-2 – General Industrial. The property to the south and west of the subject property was zoned R-2 – Urban Residential. Code required side and rear yard setbacks of 100 feet when a General Industrial District abuts a Residential District.

Variance #1

Code §154.055(C)(2)(b)(1) states:

*Each rear yard shall be at least equal to 2 times the height of the principal building. If adjacent lots are already industrially developed to the lot line, the rear yard requirement shall be at the discretion of the Planning Board. Where a rear yard abuts a residential district, said yard shall in no case be less than 100 feet and a landscaped screening as specified in § 154.061 shall be provided. An opaque fence may be substituted for such landscaped screening if approved by the Planning Board. If the use is to be serviced from the rear, the yard shall be at least 50 feet deep.*

Mr. Spring noted that the proposed warehouse addition would be 74.45' from the rear (southern) property line. Therefore a variance of 25.55' was required (100' – 74.45' = 25.55').

Variance #2

Code §154.055(C)(2)(c)(1) states:

*Each side yard shall be at least equal to 2 times the height of the principal building.*

*If adjacent lots are already industrially developed to the lot line, side yard requirements shall be at the discretion of the Planning*

*Board. Where a side yard abuts a residential district, said yard shall in no case be less than 100 feet and a landscaped screening as specified in § 154.061 shall be provided. An opaque fence may be substituted for such landscaped screening if approved by the Planning Board. If the use is to be serviced from a side yard, that yard shall be at least 50 feet deep.*

Mr. Spring noted that the proposed warehouse addition would be 54' from the side (western) property line. Therefore a variance of 46' was required ( $100' - 54' = 46'$ ).

Mr. Spring explained the procedural requirements to grant the variances in this case as outlined in Sections §154.175(E)(1)&(9) §154.175(C) and §154.175(D) of the Tipp City Code of Ordinances.

Mr. Spring mentioned the following regarding the case:

- If approved, the applicant would be required to seek Site Plan approval from the Planning Board at the April 8, 2008 meeting (or earlier if a Special Meeting was scheduled).
- The applicant would be required to provide a Class A buffer screen along all adjoining property lines between industrially and residentially zoned properties (to be reviewed during the site plan approval process).
- All other required setbacks would be met by the proposed expansion.

Mrs. Wall inquired as to which neighbors were notified of this variance requests. Mr. Spring stated that all adjoining property which would include Third Street, Elm Street, Wilhelm, and First Street.

Mr. Spring stated that staff received two comments from neighbors. Paul Adkins, 31 Wilhelm, stated that he had no objections. Ben Wead, 518 S. Third Street, did not have a specific issue with the variance but was concerned mostly about any additional noise.

Jim Ross, 1455 Barnhart Road, on behalf of George Timmer. Mr. Ross stated that while going through the zoning process with Mr. Spring that their intent was to comply with all the requests that he had asked them to do as far as buffering, lighting, and to any respect to those zoning applications.

Chairman Poff asked about additional noise the addition may cause. Mr. Ross stated that there would be less noise because there would not be as much night action and the work would be performed within the building. The new parking surface would be

the same in the front and the building would be in the back and the operations would be inside.

Chairman Poff asked if the dumpster would be moved. Mr. Ross stated that the dumpster would not be moved but would be screened per the zoning code requirements.

Mr. Berrett inquired what type of class a buffer screen would be installed. Mr. Ross stated that currently planting was drawn in for the buffer. Mr. Spring stated that the site plan that was provided indicated that there would be 293 6' arborvitaes along the western and southern perimeter but have asked for an option that the Planning Board could grant at their meeting where that could be replaced with a 6' tall privacy fence and both would meet the minimum requirements of the zoning code for a type a buffer.

Mrs. Wall noted that currently there was a chain link fence around the property and asked if any buffers would be implemented there. Mr. Spring stated that the main issue was that since the building was being expanded the property owner was being required to bring the non-conforming issues up to standards. Anytime an industrial property abuts residential which is only on the western and southern sides of the property was where the buffer specifically had to come in. Mr. Spring also stated that the property was being considered as a whole for parking and lighting that was required, the buffer was simply required only on area where industrial abuts residential.

Mr. Borchers asked if the alley had been abandoned along the west side of the property. Mr. Spring stated that the alley that runs north to south had not been abandoned. The alley that runs west to east had been abandoned because it did not show on the tax map.

Mrs. Wall inquired about the noise concern voiced from the neighbor, if that would be addressed at the Planning Board level. Mr. Spring stated that would certainly be a consideration and ultimately a type "A" buffer should have some sound dampening quality to it. Mr. Spring stated that he could not personally vouch whether an earthen berm plant material or a mechanical berm would provide more buffer.

#### Variance 1

Chairman Poff asked for further discussion. There being none, Mrs. Wall **moved to grant a variance of 25.55 feet to the minimum required rear setback of 100 feet noted in Code §154.055(C)(2)(b)(1) for Permitted Industrial Uses abutting a residentially zoned property**, seconded by Mr. Borchers. **Motion carried.** Ayes: Wall, Borchers, Poff, and Berrett. Nays: None.

Variance 2

Chairman Poff asked for further discussion. There being none, Mrs. Wall **moved to grant a variance of 46 feet to the minimum required side setback of 100 feet noted in Code §154.055(C)(2)(c)(1) for Permitted Industrial Uses abutting a residentially zoned property**, seconded by Mr. Berrett. **Motion carried.** Ayes: Wall, Berrett, Poff, and Borchers. Nays: None.

**Old Business**

There was none.

**Miscellaneous**

Mr. Berrett had inquired if there had been any interested parties for the open Board Member position. Mrs. Wall stated that she had spoke with a citizen whom which expressed interest and she told him how to apply for the position.

**Adjournment**

There being no further business, Mrs. Wall **moved to adjourn the meeting**, seconded by Mr. Berrett and unanimously approved. **Motion carried.** Chairman Poff declared the meeting adjourned at 7:56 p.m.

\_\_\_\_\_  
Chairman Ron Poff

Attest: \_\_\_\_\_  
Mrs. Kimberly Patterson, Board Secretary